

- Copy -

**GALLUP POLICE DEPARTMENT
GALLUP, NEW MEXICO**

To: Justin Olvera
Public Service Officer

November 7, 2019

From: Franklin Boyd
Chief of Police

RE: NOTICE OF INTENT TO RELEASE FROM EMPLOYMENT

Pursuant to Section 224.00 to 224.04 of the Gallup Police Standard Operating Procedures Manual and Article VII of the collective bargaining agreement between the City of Gallup and the International Union United Mine Workers of America, you are hereby provided with notice of my intent to release / dismiss you from employment from the Gallup Police Department, City of Gallup as a result of the following:

On June 28, 2019, at approximately 1916 hours, PSO Elijah Bowman picked up and transported an intoxicated male subject, later identified as Rodney Lynch, to NCI. While in route to NCI, PSO Bowman made contact with you to request assistance with Mr. Lynch at NCI because the subject was disorderly. When PSO Bowman arrived at NCI, he met you there and subsequently you made contact with Mr. Lynch after you opened the PSO panel door. After asking Mr. Lynch to come out, your contact with Mr. Lynch got physical as you attempted to control him and you both ended up on the ground outside of the facility. The result of this altercation, along with the physical state of Mr. Lynch, subsequently resulted in the unfortunate death of Mr. Lynch.

I have reviewed the Internal Affairs report, video footage of the incident from NCI, the Death Investigation Summary from the Office of the Medical Investigator, as well as the findings from the Response to Resistance Board in regard to the use of force you utilized during this incident. I have also took into consideration the input and case review recommendations from the command staff of this Department.

As a result of my final review of all the reports, findings, video and recommendation reviews, and in the best interest of the Gallup Police Department and the City of Gallup, it is my intent to terminate your employment with the City of Gallup Police Department.

Your above referenced conduct / actions as outlined in the attached investigative reports and findings are in violation of Gallup Police Department Standard Operating Procedures as follows:

DUTIES AND RESPONSIBILITIES

115.01 PUBLIC SERVICE OFFICER RESPONSIBILITIES

A. PUBLIC SERVICE OFFICERS (PSOs) shall promptly obey and support all directives and policies established by the Chief of Police.

115.05 CALLS NOT AUTHORIZED FOR PSOs to RESPOND

Exhibit "O"

D. PSOs will not handle a drunk and disorderly call alone. A sworn officer will respond with the PSO and if probable cause exists and the officer witnessed the offense of disorderly conduct, effect an arrest.

115.09 USE OF FORCE

A. PSOs shall use only that force which is reasonable and necessary to overcome resistance, to protect oneself or another, and to effect lawful objectives.

B. PSOs are permitted to use those defensive tactics and non-deadly tools with which they are trained, qualified, and certified with, as determined by training procedures, for the resolution of incidents when force becomes necessary.

C. Every PSO is expected to consider the use of Department approved options, ranging from verbal techniques, hand control procedures, and non-lethal equipment. The following non-deadly force tools are authorized to be issued:

1. Expandable Baton
2. Chemical Agents
3. Handcuffs

230.03 PROCEDURES

D. The following incidents, at a minimum, shall be recorded by Officers and PSOs: 1. Encounters with and/or transportation of intoxicated individual(s)

Your conduct and actions were in violation of the Gallup Police Department Standard Operating Procedures, approved training guidelines and expectations.

You are hereby notified of your right to a pre-determination hearing. A pre-determination hearing has been scheduled for November 14, 2019, at 1500 hours, in the Internal Affairs Office of the Gallup Police Department. This meeting is to afford you the opportunity to present your reasons why the proposed action should not be taken. You also have the right to grieve the final decision.

* The employee has no obligation to attend this pre-determination hearing.

F. Boyd / 4348
Issuing Supervisor Print / ID#

[Signature]
Issuing Supervisor Signature

This letter / notice was served to PSO Justin Olvera on November 7, 2019 at 1506 hours by Franklin Boyd.

[Signature] 4348
Serving Officer Signature / ID#

CC: Internal Affairs

Rev. 060419

**GALLUP POLICE DEPARTMENT
GALLUP, NEW MEXICO**

To: Justin Olvera

December 19, 2019

From: Franklin Boyd
Chief of Police

RE: NOTICE OF FINAL ACTION (IA CASE 19-10)

Dear Justin:

I have considered the testimony that you provided to me on November 21, 2019, as well as the entire internal affairs case documents, video, etc.

As a result, the following listed alleged violation is dismissed:

115.05 CALLS NOT AUTHORIZED FOR PSOs to RESPOND

D. PSOs will not handle a drunk and disorderly call alone. A sworn officer will respond with the PSO and if probable cause exists and the officer witnessed the offense of disorderly conduct, effect an arrest.

In regard to the other violations as outlined in the same "NOTICE OF INTENT TO RELEASE FROM EMPLOYMENT", I did not find anything in the testimony / hearing as provided that would lead me to adjust the prior: "Notice of Intent to Release from Employment". Therefore, it is my ruling that the release from employment action served on you on November 7, 2019 stand.

This letter / notice was served to Justin Olvera on December 16, 2019 at 1455 hours by Franklin Boyd.

 4348
Serving Officer Signature / ID#

CC: Internal Affairs

Human Resources

*Copy to H.R.
came to
Cindy New
on 12/19
rec'd from Chief*